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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary  
Federal Communications Commission  
c/o Vistronix, Inc.  
236 Massachusetts Avenue, NE, Suite 110  
Washington, DC 20002

RE: MB Docket No. 02-211  
RM-10511  
Wall Radio Broadcasters  
Wall, SD  
Channel 288C

Dear Ms. Dortch:

Transmitted herewith, on behalf of Wall Radio Broadcasters, are an original and four copies of the **COMMENTS OF WALL RADIO BROADCASTERS**, in response to the Commission's Notice of Proposed Rulemaking regarding the allocation of Channel 288C to Wall, South Dakota.

Should further information be necessary regarding this submission, kindly communicate directly with this office.

Sincerely,

  
John M. Pelkey

JMP/blr

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Before The  
**Federal Communications Commission**  
Washington, D.C. 20554

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SEP 23 2002

In re Amendment of  
Section 73.202(b)  
Table of Allotments  
FM Broadcast Stations  
Wall, SD

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MB Docket No. 02-211  
RM-10511

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: Assistant Chief, Audio Division

## Comments of Wall Radio Broadcasters

By Petition for Rule Making filed June 24, 2002, Wall Radio Broadcasters (referred to herein as "Wall Radio") requested that the Commission institute a rule making proceeding to amend Section 73.202(b) of the Commission's rules, the Table of FM Allotments, by allotting Channel 288C to Wall, South Dakota, as that community's first local aural transmission service. In response, the Commission released a Notice of Proposed Rulemaking ("*NPRM*") in the above-captioned proceeding, proposing the requested change to the Table of Allotments and soliciting the submission of comments by September 23, 2002.<sup>1</sup> Wall Radio, through counsel, hereby submits its comments in response to the *NPRM*. As will be shown below, the proposed rule making is consistent with Commission policy and would advance the public interest. Wall Radio respectfully

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<sup>1</sup> See *NPRM*, MB Docket No. 02-211 (RM-10511), DA 02-1874 (adopted July 24, 2002, released August 2, 2002).

requests, however, that the Commission adopt the reference coordinates originally specified by Wall Radio in its Petition for Rule Making rather than the coordinates set forth in the *NPRM* inasmuch as the use of the originally-specified reference coordinates would permit service to white areas that would not be served from the reference coordinates specified in the *NPRM*.

I. Wall is a Community in Need of Broadcast Service.

In its Petition for Rule Making, which is hereby incorporated by reference, Wall Radio requested that the Table of Allotments be amended to allocate Channel 288C to Wall, South Dakota, so as to permit the provision of that community's first local aural transmission service. Wall, South Dakota, is an incorporated community with a population of 818 persons according to the 2000 U.S. census. It is governed by a Mayor and town council. Wall has its own post office with its own zip code (57790). Police protection is provided by the Wall City Police Department, while the children of Wall are educated in Wall Elementary School, Wall Middle School and Wall High School. Wall is also home to numerous businesses, including grocery stores, such as Wall Food Center; gift shops, such as the Wall Trading Post; the Wall Building Center (a hardware store); Wall Drug Store; and Wall Meat Processing. Located at the edge of South Dakota's Badlands area, Wall is a significant tourist attraction that is home to the National Grasslands Visitors' Center, the Wildlife Museum, the Wild West Wax Museum and several hotels and B&Bs. Despite Wall's status, however, no broadcast facilities of any

type are allocated to the community. Allocation of Channel 288C would remedy this deficiency.

II. Allocation of Channel 288C to Wall would Well Serve the Commission's Allocations Priorities and thus would be in the Public Interest, while Fully Abiding with the Commission's Technical Requirements.

*In Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 5 FCC Rcd 7094, 7096 (1990), the Commission held that provision of first local service is the highest of the allotment priorities which remains in any significant degree unsatisfied.<sup>2</sup> The allocation to Wall would permit Wall to receive its first local aural channel, thus serving this highest of allotment priorities. In addition, as was acknowledged in the *NPRM*, Channel 288C can be allotted to Wall consistent with the minimum distance separation requirements of the Commission's rules and without a site restriction.<sup>3</sup> In this regard, Wall Radio notes that the Commission has proposed reference coordinates that are different than those proposed by Wall Radio in its Petition for Rule Making. As was explained by Wall Radio in its Petition for Rule Making, city grade coverage would be realized over all of Wall if the reference coordinates proposed by Wall Radio were used.<sup>4</sup>

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<sup>2</sup> As the Commission explained in *Revision of FM Assignment Policies and Procedures*, the FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters (with co-equal weight being given to priorities (2) and (3)). 90 FCC2d 88, 91 (1982).

<sup>3</sup> *NPRM* at p. 3.

<sup>4</sup> *Petition for Rule Making* at 2.

III. Use of the Reference Coordinates Proposed by Wall Radio in its Petition for Rule Making would Better Serve the Public Interest Inasmuch as the Use of the Originally-Proposed Reference Coordinates Would Allow Service to White Areas not Served Using the *NPRM*'s Proposed Reference Coordinates.

In its Petition for Rule Making, Wall Radio proposed that 44-01-18 NL; 101-53-10 WL, be used as the reference coordinates for the new Wall facility. In the *NPRM*, however, the Commission proposes reference coordinates of 43-59-47 NL; 102-13-07 WL. Wall Radio's analysis of the coverage that could be achieved from each of the two sets of coordinates reveals, however, that the originally-proposed reference coordinates are superior to the reference coordinates proposed in the *NPRM* due to the fact that a Class C facility operating from the originally-proposed coordinates would provide coverage over "white" areas that would not be served by a Class C station operating from the reference coordinates proposed in the *NPRM*. These white areas are depicted in Exhibit 1, hereto. Because the coordinates originally specified by Wall Radio apparently would provide service to white areas that would not be served using the Commission's proposed reference coordinates, Wall Radio continues to seek the allotment at Wall with the reference coordinates specified in the Petition for Rule Making. If, however, the Commission determines that the allotment at Wall can be made at the coordinates set forth in the *NPRM* while ensuring the provision of service to any white area that would be served by the Wall allocation if the originally-proposed reference coordinates were used, Wall Radio supports the use of the coordinates specified in the *NPRM*.

IV. Wall Radio Reaffirms its Commitment to Apply for the Requested Facilities and Construct those Facilities Promptly.

In its Petition for Rule Making, Wall Radio committed that, if the proposed amendment to the Table of Allotments were adopted, it would promptly apply for an authorization to construct the new facilities and, if it were awarded the construction permit, would construct the new facilities promptly.<sup>5</sup> Wall Radio hereby reaffirms that earlier commitment and, in accordance with paragraph 2 of the Appendix to the *NPRM*, specifically states its intention to apply for Channel 288C if that channel is allocated to Wall, and, if authorized, to promptly construct the new facilities, place the facilities in operation, and seek a license covering the construction of the facilities. Even though Wall Radio believes that its originally-specified reference coordinates are superior to those set forth in the *NPRM*, its commitment to apply for the new allocation at Wall and to construct the facility promptly remains in effect regardless of which reference coordinates are ultimately adopted by the Commission.

V. Conclusion

The above facts demonstrate that the Commission's allocation criteria would be well served by the allocation of Channel 288C to Wall, South Dakota, as such allocation would provide that community with its first local aural transmission service. Inasmuch as the allocation to Wall complies with all separations requirements and would

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<sup>5</sup> *Petition for Rule Making* at 3.

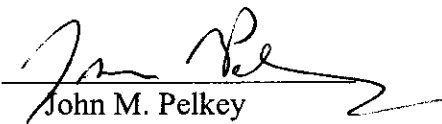
allow city grade coverage of Wall regardless of which of the two sets of reference coordinates is adopted by the Commission, the proposal is consistent in all respects with the Commission's rules. Although Wall Radio continues to support the proposed allocation, it respectfully requests, however, that the Commission adopt the reference coordinates originally specified in the Petition for Rule Making inasmuch as the use of those reference coordinates would permit the provision of service to white areas that apparently would not be served from the reference coordinates specified in the *NPRM*.

Accordingly, Wall Radio respectfully requests that the Table of FM Allotments be amended as follows:

Community	Present Allotment	Proposed Allotment
Wall, South Dakota	--	288C

Respectfully submitted,

Wall Radio Broadcasters

By:   
John M. Pelkey  
Its Attorney

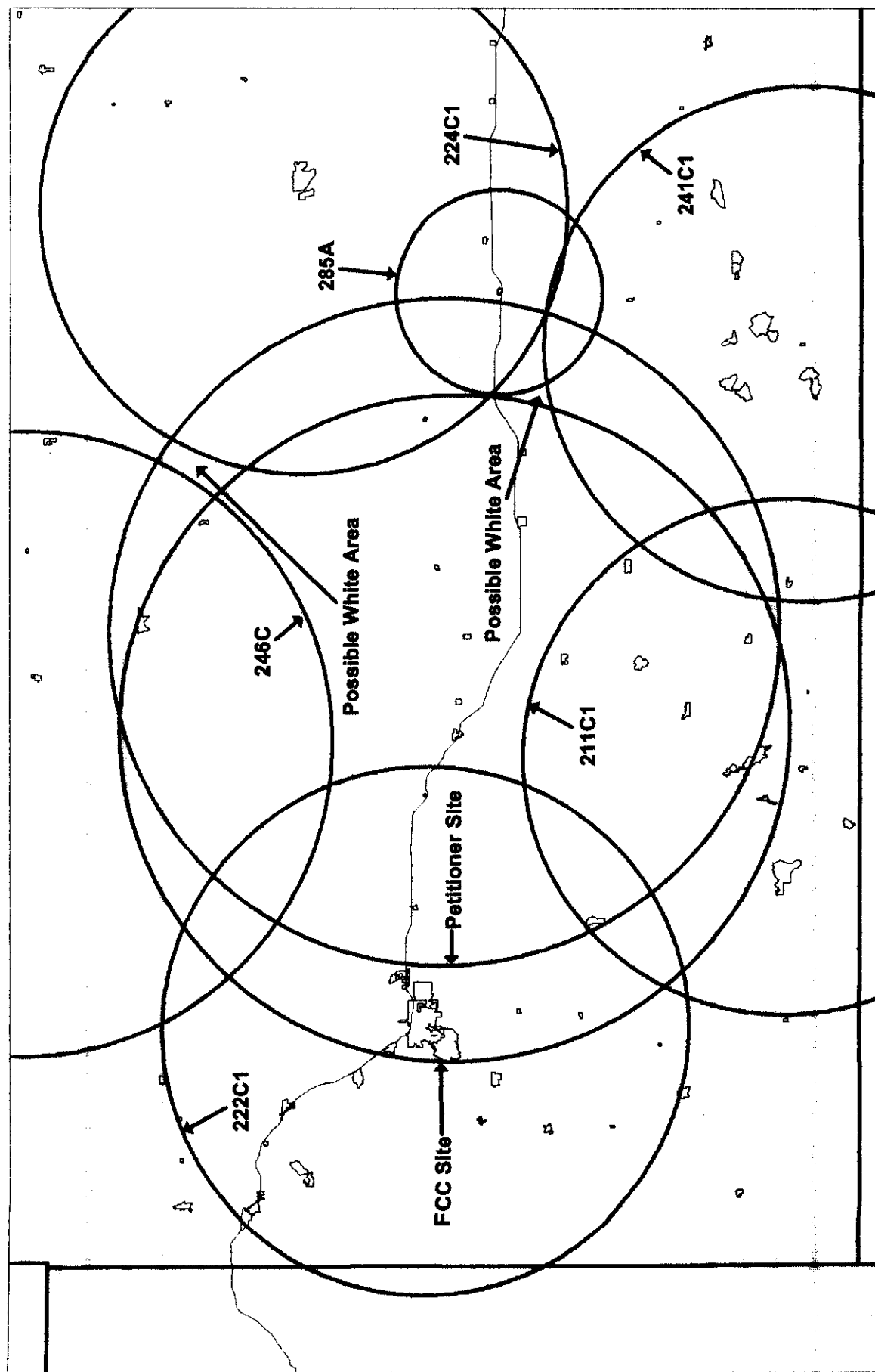
Garvey Schubert Barer  
5<sup>th</sup> Floor, 1000 Potomac Street, N.W.  
Washington, DC 20007

202/965-7880

Date: September 23, 2002

Exhibit 1



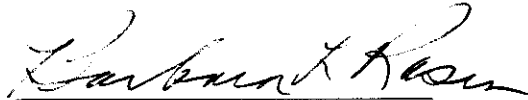


**Map Showing Interference Free coverage from FCC and Petitioner's Allotment Reference  
Using FCC Site May Create White Area**

## CERTIFICATE OF SERVICE

I, Barbara L. Rascon, a secretary in the law offices of Garvey Schubert Barer, hereby certify that I have on this 23rd day of September, 2002, sent copies of the enclosed **"COMMENTS OF WALL RADIO BROADCASTERS"** by hand-delivery or first-class, United States mail, postage prepaid, to the following:

\*Rolanda F. Smith  
Federal Communications Commission  
Media Bureau  
445 Twelfth Street, SW, Room 3-A320  
Washington, DC 20554

  
Barbara L. Rascon  
Barbara L. Rascon

\* Hand Delivery